

MINUTES
CANBY PLANNING COMMISSION
7:00 PM – Monday, August 26, 2019
City Council Chambers – 222 NE 2nd Avenue

- PRESENT:** Commissioners John Savory, Larry Boatright, Derrick Mottern, Andrey Chernishov, Jeff Mills, Jennifer Trundy, and J Ryan Adams
- ABSENT:** None
- STAFF:** Bryan Brown, Planning Director, Ryan Potter, Associate Planner, and Laney Fouse, Recording Secretary
- OTHERS:** Brea Snyder, Sharon Gretch, Chip O’Hearn, Pat Smith, Doug Smith, Robert Taylor, Regina Taylor, and Kim Dahlberg

CALL TO ORDER

Chair Savory called the meeting to order at 7:00 p.m.

CITIZEN INPUT ON NON-AGENDA ITEMS – None

MINUTES

- a. Approval of Planning Commission Minutes for August 12, 2019

Motion: A motion was made by Commissioner Mottern and seconded by Commissioner Adams to approve the August 12, 2019 Planning Commission minutes. Motion passed 7/0.

NEW BUSINESS -- None

PUBLIC HEARING

- a. To consider Site and Design Review, Conditional Use Permit, and Variance applications for a 130-foot-tall stealth “monopole” telecommunications tower with antenna. The pole would be designed to resemble a fir tree and be located at 640 SW 2nd Ave. (*City File# DR 19-01/CUP 19-01/VAR 19-02*).

Chair Savory opened the public hearing and read the public hearing format. He asked if any Commissioner had ex parte contacts or conflicts of interest to declare. Commissioner Mottern stated he worked for a local telecommunications company and Commissioner Adams said he had AT&T cell service.

Ryan Potter, Associate Planner, entered his staff report into the record. This was a request for a site and design review, Conditional Use permit, and variance for a telecommunications tower with antenna on SW 2nd Avenue. He described the existing site conditions at the Pacific Pride fueling station. The site was zoned heavy commercial manufacturing (CM). The proposed facility would be a 130 foot stealth monopole with antennas. It would provide wireless telephone and data service to an area identified as underserved. It would be designed to resemble a Douglas fir tree. This would be 750 square feet of leased area and the existing uses on the site would remain. There would be an equipment shelter with indoor generator, perimeter fence, and landscaping buffer facing 2nd Avenue. He discussed the proposed design of the tower and showed view simulations of what it

would look like. The applicant chose this site based on a targeted search ring for signal strength and capacity. He described the applicable review criteria for the application. Staff thought the application was consistent with the Comprehensive Plan and characteristics of the site, there were adequate public facilities and services, and it would not limit or preclude the uses of the surrounding properties. The applicant had provided the necessary submittal requirements. The tower would not affect lot size and coverage, there would be landscaping and screening, it would not have lighting, and it was not in a sensitive location. There were height and setback requirements, which was a 1 to 1 setback. That meant that however tall the tower was it had to have an equal setback. However, there were property lines surrounding the parcel and the setbacks would be less than the 130 feet. They would be 73, 50, and 13.5 feet and there was need for a variance. The applicant had stated in this area of town there were no sites that would allow a proposed facility that would be tall enough to serve the unmet need and have the full setback. He then reviewed the conditions of approval regarding the design, safety, and maintenance of the facility. The City had received four items of correspondence. Letters from the City Engineer and ODOT stated they had no comments. A resident submitted a letter regarding concerns about the health effects of 5G technology and another resident wrote about concerns regarding the visual impacts. Staff recommended approval of the applications.

Commissioner Trundy asked if approval of the variance would set a precedent for more towers.

Bryan Brown, Planning Director, did not think so, especially since it was a Conditional Use which was based on this location and the nature of this tower.

Commissioner Trundy asked if they were using breakpoint technology. Mr. Potter said yes, there would be one breakpoint. The lower parts of the pole were designed to be stronger and the upper parts were a lighter steel construction and would fall down onto the lower part. He did not think there would be an issue being near the fuel station.

Commissioner Adams asked if they had any other option but to approve this application under the Federal Telecommunications Act.

Mr. Potter said the Act did make it hard for a local jurisdiction to deny a project such as this. It added a lot of restrictions on a local jurisdiction's ability to regulate these types of facilities.

Mr. Brown thought they had a choice to deny it, but they would have to provide good findings to go along with the denial. It was risky not to approve it. To provide good cellular service in the community this was what was needed.

Mr. Boatright asked how far the tower would be to the fuel pumps. Mr. Potter said it was about 50 feet.

Applicant: Sharon Gretch, SmartLink in Kirkland, WA, said it had been a challenge to find a site that would work for both the City and AT&T. They were upgrading their wireless service for 4G. The tower would help address the service gap and provide better service coverage and capacity. It would be 130 feet tall and would be a stealth monofir. The antennas would be painted green and pole would be painted brown and covered by the tree branches. The tower would be engineered and would meet all building code standards. They would be using the breakpoint technology to address the setback issues. That would happen at the 60 foot level which would protect 2nd Avenue and the pumps. There would be landscaping as well. She explained the targeted search to find the right location. This site best met their coverage objectives and had a willing landlord. She then explained the coverage gap and capacity areas they would be picking up.

Chip O’Hearn, SmartLink, discussed the alternative sites that were reviewed. The two most viable options were located outside the search ring and would not provide the coverage that was needed.

Chair Savory asked how much service people were currently getting in that area. Ms. Rush said there was limited coverage where people could not make phone calls in buildings or vehicles. It was about a 2 mile coverage ring. There was only so much capacity and when all the capacity was being used, people could not make calls or calls were dropped.

Mr. O’Hearn said there was so much data going on and the download and upload speeds were affected. They had to find a way to maximize the coverage for data and voice in this area.

Commissioner Adams asked about a citizen concern about health and the frequencies. He asked if they were allowed to consider this concern. Ms. Gretch said the Telecommunications Act precluded local jurisdictions from basing a denial on health effects. Cell towers operated thousands of times below the FCC requirements. She did not think there were any impacts on health.

Commissioner Boatright asked if this could be a 5G in the future. Ms. Gretch said it could be.

Mr. Brown said 5G was considered small cell sites right now. They were trying to locate on light poles and telephone poles instead of a cell tower.

Ms. Gretch explained the 5G small cells and how they were low powered and evenly distributed throughout the city.

Mr. O’Hearn said there were more of the small cells and they were down lower on light poles to cover smaller areas.

Commissioner Mottern thought the truck sales location across the street would be much better for the tower location. Mr. O’Hearn said that property owner was non-responsive.

Commissioner Mottern said there would not only be millimeter wave on the small cell deployment which would be for urban areas, but there would also be lower frequencies in the 3.5 range that would be on these towers for 5G.

Chair Savory asked if any AT&T tower had collapsed before. Ms. Rush had only seen one bend in a hurricane, not break.

Commissioner Chernishov asked about the tower becoming an eyesore in the future. Ms. Rush said that would be part of the maintenance agreement. When it was not useful anymore, the tower would be removed. It was a 25 year lease.

There was discussion regarding the electromagnetic exposure analysis and how it concluded that this tower would comply with FCC and County guidelines for human exposure to radiofrequency electromagnetic fields.

Proponents: None

Opposition: Brea Snyder, Oregon City resident, said her children were in the Canby School District and this tower would be erected next to the high school. She had concern about the health of the tower and did not think the tower would look good aesthetically. The Telecommunications Act was approved back when they had brick phones. The laws were dated and she did not think they were valid anymore. She was opposed to this tower.

Patricia Smith, Canby resident, thought 4G exposure caused serious damage to the human body. Teenagers had enough problems. She thought they should reduce the usage of electronics instead of endangering health. Health was more important than the latest technology.

Rebuttal: Ms. Gretch said in regard to other 4G towers in Canby, all of them were 4G at this point. There were at least two other towers in Canby.

Chair Savory closed the public hearing.

Commission Deliberation:

Commissioner Chernishov had concerns that it was near the high school.

Commissioner Adams thought the Commission was within their rights to consider the health issues of radiofrequency emissions. He was also concerned about the collapsing of the tower at 60 feet when the tower would be 50 feet from the pumps.

Commissioner Boatright did not have a problem with the design. There were fuel tanks on this site and he was concerned that the tower would only be 50 feet from the pumps. He was also concerned about the safety.

Commissioner Mills would vote in favor of the application but he was not happy about it. He thought they could raise health and safety concerns, especially about the tower collapsing. The arguments needed to go to the State and Federal government, as the Planning Commission was limited in what they could do.

Commissioner Mottern could not speak to the health issues. The industry was heavily regulated based on licensed frequencies. He thought it was a good design and would fit the area. He had an issue with the location. It was not a good location as there were many other buildings surrounding this property and it would be close to the surrounding property lines. He thought they could find a better location and would be voting no.

Commissioner Trundy said the Commission was not educated enough to know about the health issues. They had to look at the application and whether it met the criteria. She asked if there was a neighborhood meeting for this application.

Mr. Potter said one was held, but no residents attended.

Chair Savory would vote in favor, but reluctantly. He thought it was odious that they could not consider the health concerns of citizens. He agreed they could find a better location.

Motion: A motion was made by Commissioner Mills and seconded by Commissioner Trundy to approve DR 19-01/CUP 19-01/VAR 19-02. Motion failed 5/2 with Commissioners Mills and Trundy in favor.

- b. There will be a presentation and action to adopt the Canby Housing Needs Analysis which provides guidance to the City of Canby decision makers regarding the provision of land to meet the future housing need.

Matilda Deas, Long Range Planner, entered the Housing Needs Analysis into the record. There was a joint work session with the Planning Commission and City Council on the Housing Needs Analysis and some minor adjustments had been made to the document based on the City Administrator's comments regarding the financing part of the Toolkit. She made sure that each policy consideration came across as a consideration, not as a requirement. She gave a background on the regulatory framework for the analysis including Goal 10 Housing, Goal 14 Urbanization, Oregon Revised Statutes, and Oregon Administrative Rules. These described the needed housing types within the Urban Growth Boundary of the City. She explained the process for the analysis as well as demographic trends. She then discussed future housing needs. The assumptions for the needed mix of housing were: about 60% of new housing would be single family detached, nearly 7% of new housing would be single family attached, and about 33% of new housing would be multi family.

There was discussion regarding the effects of HB 2001 and the projected population growth rates.

Ms. Deas said she ran the numbers at 1.6% growth rate that was the Portland State University's number they were required to use, but she could run the numbers at the 2.3% rate which was the actual growth rate of the City and include that information in the document.

There was discussion regarding the Willamette Valley Country Club zoning and how it skewed the Buildable Lands Inventory for low density residential.

Ms. Deas continued to discuss future housing needs. The data showed the annual average of new dwelling units was 119. She also discussed household incomes and costs per unit, both for property owners and renters. Renters had a harder time affording housing and 16% were cost burdened. There were not many housing choices for low income and high income. She then explained the land sufficiency and how they came up with the partially vacant land number by looking at every half acre in the City and if it could be divided and developed. There was a deficiency in high density residential, and in the future the Commission would have to do a Comprehensive Plan amendment to accommodate the future demand for high density. Some of the recommendations and policy considerations were: remove the Mixed Density Residential designation, re-designate 14 acres of Mixed Density Residential to Medium Density Residential, re-designate 30 acres of Mixed Density Residential to High Density Residential, re-designate 15 acres of Mixed Density Residential to Highway Commercial, re-designate the remaining Mixed Density Residential to Low Density Residential, re-designate Private Recreation to Low Density Residential, remove Convenience Commercial designation, remove Residential Commercial designation from all but the two RC tax lots and re-designate as per current underlying zone, and re-designate the two noted RC tax lots to High Density Residential. The policy considerations were: consider allowing duplexes outright in the Low Density Residential zone, consider allowing cottage housing in residential zones as an affordable housing option, consider inclusionary zoning, consider allowing very small homes (500-800 square feet), and consider reducing fees for affordable housing developments to incentivize their construction. She thought they should use the Housing Strategies Toolkit to explore avenues to facilitate the development of a variety of housing types that were affordable to all residents of

Canby. She asked that the Commission make a recommendation to the Council to adopt the Housing Needs Analysis as a guiding document.

Robert Taylor, Canby resident, explained why he thought the population numbers and future growth forecast numbers had not been added correctly. The figures for the vacant acres of land were also incorrect as well as the break down for needed low, medium, and high density residential land. They needed to outline the assumptions, trends, and predictions so people would know how to read what the document was saying.

Ms. Deas said several of these had already been corrected. She thought they could get together to clarify some of the other numbers.

Regina Taylor, Canby resident, did not see a rush to submit this document to the state. She thought it was a fantastic tool to measure their progress in meeting housing goals in the next 20 years. She noted that they met the goals for needed housing inventory for low and medium density and were only lacking a small percentage for high density especially with re-designating the Mixed Density Residential zone. She also noted some of the numbers were wrong in the document. She thought the wetlands needed to be delineated so they knew how much to remove from the Buildable Lands Inventory. She also recommended adding the reasoning to Appendix A for removing the Residential Commercial zone. She pointed out some typos in the document.

Commissioner Mills would like to see the changes made and a final document redlined before recommending it to the City Council.

Commissioner Mottern was ready to move forward with the corrected document to the Council. This was a guidance tool and could be changed.

Commissioner Trundy agreed to move forward and for staff to fix the numbers and typos. She would like to include the 2.3% growth rate information.

Commissioner Chernishov also thought they should include the 2.3% rate in the document.

Commissioner Ryan was ready to move forward.

Commissioner Boatright was also ready to move forward.

Chair Savory found it odd that they were looking at the housing needs without the bigger picture of traffic, infrastructure, etc. He thought they should include the 2.3% rate information. It was difficult to say this document had any relevance to the overall growth of the City when there was no traffic assessment and impacts on roadways.

Ms. Deas explained the Transportation System Plan was based on the full build out of every zone and listed the improvements that would be needed for the full build out. That document was adopted in 2011. The other infrastructure master plans did the same thing.

There was discussion regarding the process that was done to create the Transportation System Plan.

Chair Savory thought they were putting the cart before the horse, especially with future transportation issues with tolling the freeways.

Ms. Deas said DLCD was making all cities create this document next year. Mr. Brown stated the document did not invite people in, but gave the City tools to know what they should expect. They had very little control over stopping the growth. He asked if staff could prepare the revised document for Council and send a copy of it to the Commission. He was concerned that it would not get done before Ms. Deas retired.

Ms. Deas clarified she would run the numbers for the 2.3% growth rate and fix the typos. She would also meet with the citizens who had concerns about the numbers.

Motion: A motion was made by Commissioner Trundy and seconded by Commissioner Adams to recommend the City Council adopt the Canby Housing Needs Analysis with the corrections to any spelling and math errors and to include the 2.3% growth rate numbers. Motion passed 7/0.

FINAL DECISIONS (Note: These are final, written versions of previous oral decisions. No public testimony.)

- a. DR 19-01/CUP 19-01/VAR 19-02 Monopole Cell Tower – Staff would prepare final findings reflecting the Commission’s denial and bring them back for approval.

ITEMS OF INTEREST/REPORT FROM PLANNING STAFF

- a. Next regularly scheduled Planning Commission meeting – Monday, September 9, 2019
- b. Update on Minor Partition (**MLP 19-02 Martin Clark**) – Mr. Brown said staff met with the applicant and shared the alternatives for the partition. The applicant chose to shorten the driveway length and keep the carport intact. It would create a larger parcel in the back and a shorter driveway access.

ITEMS OF INTEREST/GUIDANCE FROM PLANNING COMMISSION

None

ADJOURNMENT

A motion was made by Commissioner Trundy and seconded by Commissioner Chernishov to adjourn the meeting. Motion passed 7/0. The meeting adjourned at 10:10 pm.